IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicant: David White, et al.

Title: SYSTEM AND METHOD FOR USING COMPOSITE SCORING IN AN AUCTION PROCESS

Appl. No.: 09/722,607

Filing Date: 11/28/2000

Examiner: S. Karmis

Art Unit: 3624

RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF AND SUBMISSION OF <u>REVISED</u> APPEAL BRIEF

Mail Stop APPEAL BRIEFS - PATENTS
Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

Sir:

This Response is responsive to the Notification of Non-Compliant Appeal Brief dated July 20, 2006, concerning the above-identified application. The Response is being timely filed and no fee is believed to be due.

With respect to paragraph 4 in the Notification, it is asserted that the Summary of the claimed subject matter does not include a concise explanation of each independent claim, and does not include a mapping of claims 1, 13 and 25 to the specification by page and line number and to the drawings, if any. A Revised Appeal Brief is attached to address this alleged problem with the previously filed Revised Appeal Brief.

Accordingly, applicants believe that the appeal brief is compliant with all the applicable rules. If the examiner believes otherwise, the examiner is encouraged to contact the undersigned attorney at the local telephone number below.

In view of above, appellants respectfully solicit the Honorable Board of Patent Appeals and Interferences to reverse the rejection of the pending claims and pass this application on to allowance.

Should additional fees be necessary in connection with the filing of this paper, or if a petition for extension of time is required for timely acceptance of same, the Commissioner is hereby authorized to charge deposit account No. 19-0741 for any such fees; and applicants hereby petition for any needed extension of time.

Respectfully submitted,

Date _August 15, 2006_

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REVISED APPEAL BRIEF UNDER 37 C.F.R. § 41.37

MAIL STOP APPEAL BRIEF - PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Under the provisions of 37 C.F.R. § 41.37, this Revised Appeal Brief is being filed in connection with the above-identified application. A credit card payment form in the amount of $500.00 covering the 37 C.F.R. 41.20(b)(2) appeal fee was paid on March 20, 2006. If this fee is deemed to be insufficient, authorization is hereby given to charge any deficiency (or credit any balance) to the undersigned deposit account 19-0741.

1.   REAL PARTY IN INTEREST

The real party in interest is GXS, Inc. (with a principle place of business in Gaithersburg, Maryland), which is the changed name of the assignee of record, G.E. Information Services, Inc., a corporation under the laws of the State of Delaware.

2.   RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences that will directly affect, be directly affected by or have a bearing on the present appeal, that are known to appellant, the assignee, or the appellant's patent representative.

3.   STATUS OF CLAIMS

The present appeal is directed to claims 1-3, 6-11, 13-15, 18-23, and 25-27 which are the claims under consideration. A copy of the pending claims 1-3, 6-11, 13-15, 18-23, and 26-27 are attached herein in the Claims Appendix (Section 8).

Claims 1-3, 6-11, 13-15, 18-23, and 25-27 are finally rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,647,373 ("Carlton-Foss").

4.   STATUS OF AMENDMENTS

An initial office action was issued on March 5, 2004, to which the applicants replied with an amendment filed on June 7, 2004. A final rejection was issued on September 20, 2004 to which the applicants replied with an amendment filed on November 22, 2004. An advisory action was issued on January 12, 2005, to which the applicants replied by filing a RCE on January 28, 2005, in which applicants requested entry of the amendment filed on November 22, 2004.

The PTO then issued an office action on April 25, 2005, to which the applicants filed an amendment and reply on July 22, 2005. The PTO then issued a final rejection on October 19, 2005, to which the applicants replied by filing a notice of appeal on January 19, 2006. This appeal brief is being filed within the statutory two month period after the filing of the notice of appeal.

5.   SUMMARY OF CLAIMED SUBJECT MATTER

The independent claims 1 and 13 respectively recite a computer implemented method and software for conducting an auction for a sponsor (of the auction). Independent claim 25 recites a window in a graphical user interface for an auction.

Claim 1 recites a step of receiving score computation information, at an auction system computer, for computing respective composite scores for respective bids submitted to the auction. These features are described, for example, on page 10, lines 7-21 of the specification.

The score computation information for computing a composite score comprises a selection of a plurality of categories as evaluation criteria for the bid. This may correspond to step 310 in Figure 3 of the drawings. The score computation information for computing a composite score further comprises a setting of parameters for each of the selected categories. This may correspond to step 320 in Figure 3 of the drawings. The score computation information for computing a composite score further comprises a weight specified for each of the selected categories. This may correspond to step 330 in Figure 3 of the drawings.

The method further comprises receiving a bid from one or more participants, the bid including bid information corresponding to the selected categories. See, for example, step 540 in Figure 5 of the drawings, whereby a bid is submitted to the auction, and thereby received by the entity conducting the auction. The method still further comprises calculating a weighted value for each one of the selected categories based on the parameters and weight for each of the selected categories and the bid information. The features of this step are described, for example, in Figure 4c of the drawings, which shows an example of a GUI for specifying weights to be used in a composite scoring system. This is also described on page 8, lines 19-24 of the specification.

The method also comprises determining the composite score for each received bid based on the weighted values for each of the selected categories. The features of this step are

shown, for example, in step 550 in Figure 5 of the drawings, and are described on page 10, lines 23-29 of the specification.

The method further comprises identifying the bid having the highest composite score. The features of this step are shown, for example, in step 580 in Figure 5 of the drawings.

The method of claim 1 also recites that at least one of the selected categories is set to a value provided by the sponsor. These features are described on page 10, lines 25-26 of the specification.

The method of claim 1 further recites that the at least one of the selected categories set to a value provided by the sponsor relates to an evaluation of the participant by the sponsor. These features are described, for example, on page 8, lines 25-29 of the specification.

Claim 1 further recites that the step of receiving a bid from one or more participants comprises receiving values corresponding to the selected categories before the bid is submitted. These features are described, for example, on page 8, lines 1-18 of the specification (whereby the sponsor 20 then submits the auction to the auction system, as described on page 9, lines 6-7 of the specification). Claim 1 also recites that the step of receiving a bid from one or more participants comprises calculating a weighted value for each one of the selected categories based on the parameters and weight for each of the selected categories and the received values. These features are described, for example, on page 11, lines 1-10 of the specification. Claim 1 further recites that the step of receiving a bid from one or more participants comprises determining the composite score based on the weighted values for each of the selected categories. These features are described, for example, on page 11, lines 10-11 of the specification. Claim 1 still further recites that the step of receiving a bid from one or more participants comprises displaying the composite score to the participant from which the values were received before the bid is submitted. These features are described, for example, on page 11, lines 12-13 of the specification.

Independent claim 13 is a computer program product claim that recites similar features as those discussed above with respect to claim 1.

Independent claim 25 is directed to a window in a graphical user interface of a computer of an auction participant. Claim 25 recites an auction window, displayed on the graphical user interface of the computer of the participant, operable to display information describing the content of the auction as provided by a sponsor of the auction. See, for

example, Figure 6 of the drawings, which shows a "General Auction Information" portion of the GUI. Claim 25 also recites a composite score window operable to display at least two of a plurality of categories selected as evaluation criteria for a bid, a value entered for each of the selected categories, and a composite score calculated according to the values entered for each of the selected categories, parameters set for each of the selected categories, and a weight specified for each of the selected categories, wherein the composite score is calculated based on the respective weight for each of the selected categories and a value provided by the sponsor of the auction that relates to an evaluation of the participant by the sponsor. See, for example, the boxed area below the "General Auction Information" portion of Figure 6, whereby a "Composite Score" is shown, a plurality of categories are shown, a value (e.g., 6000, 475, 8) is entered for each category, a weight is specified for each category (e.g., 1, 3, 2). Page 10, lines 7-28 of the specification describes the information used to compute a composite score. Claim 25 also recites that the composite score is displayed to the participant before the values are submitted to the auction. The features recited in this portion of claim 25 are described, for example, on page 12, lines 4-10 of the specification.

As shown in figure 1, an auction system 50 is connected through a network 40 to a sponsor 20 of the auction and one or more participants 30. Figure 2 and its description in the specification (at page 5, line 5 to page 6, line 28) describes the process for setting up an auction by a sponsor. Figures 3 and 4a-d describe the process in which the auction system receives score computation information from the sponsor including a selection of a plurality of categories as evaluation criteria for the bid, a setting of parameters for each of the selected categories and a weight specified for each of the selected categories. See, for example, page 6, line 29 to page 7, line 10 and page 6, line 11 to page 9, line 21. Furthermore, as discussed on page 8, lines 2-7, one or more of selected categories (for example, quality) may be specified or entered by the sponsor of the auction.

Figure 5 and its description in the specification describes the process for submitting and evaluating a bid. Steps 510-540 describe the general process of submitting a bid to the auction. As described on page 12, lines 4-10, the participant 30 would have the option to have the system determine the composite score of a bid *before submitting the bid*. After entering the values for the various categories, the participant could click the "check score"

button (shown for example in figure 6) and a resulting composite score (which is not submitted to the auction) is displayed to the user. Therefore, this portion of the disclosure (page 12, lines 4-10) discloses the steps of receiving (by the auction system) of values corresponding to the selected categories before the bid is submitted, calculating a weighted value of each one of the selected categories based on the parameters and weight for each of the selected categories and the received values and determining and displaying the composite score to the participant before the bid is submitted.

Once a bid is submitted, step 550 discloses the process for calculating the composite score for each bid. See page 10, line 21 to page 11, line 11. Once the auction is over, the bid having the highest composite score is identified in step 580. See page 12, lines 15-23.

6.   GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The issue on appeal is whether the examiner erred in rejecting claims 1-3, 6-11, 13-15, 18-23, and 25-27 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,647,373 ("Carlton-Foss").

7.   ARGUMENT

It is respectfully submitted that the applied rejection of the pending claims is erroneous for at least the following reasons.

Each of the independent claims 1, 13, and 25 recite, *inter alia*, a method, program product, or a graphical user interface window for conducting an auction in which a *sponsor* of the auction evaluates at least one of the selected categories of the auction and an auction *participant* is provided a composite score (including the automated evaluation of the selected categories by the sponsor) *before* the bid is submitted by the auction participant. This recited feature is not disclosed or suggested by Carlton-Foss.

Specifically, the final office action refers to the office action dated April 25, 2005, which cites to col. 12, line 8 to col. 13, lines 30 of Carlton-Foss with respect to claims 12 and

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24 where these features were previously recited. However, this cited portion merely discloses that the requestor/purchaser of the reverse auction has the option to review the results of the automated evaluation and to update them manually. See col. 12, line 53-60 of Carlton-Foss. However, the requestor/purchaser of the reverse auction corresponds to the *sponsor* in the pending claims. Nowhere does Carlton-Foss teach or suggest that the *auction participant* (or *bidder* as described in Carlton-Foss) being provided with a composite score before the bid is submitted by the bidder.

This recited feature is especially valuable in the context of the claimed invention in which a bidder's (or auction participant's) composite score is determined partly by an evaluation of the bidder by the sponsor of the auction and as such the bidder would not know in advance how the submitted bid information would relate to the composite score before the bid was submitted.

Accordingly, neither the specific recited features nor its advantages are disclosed or suggested by Carlton-Foss. In order for a reference to be utilized as an anticipatory reference under the provisions of 35 U.S.C. § 102, the reference must disclose each and every claim limitation. This is certainly not the case here, and thus the Sec. 102 rejection as to the independent claims 1, 13, and 25 must be withdrawn.

The final office action then alleges the specification does not support the recited feature of calculating and displaying a composite to a participant before the bid is submitted. However, as disclosed on page 12, lines 4-10, one of the embodiments of the invention includes "check score" button (shown in figure 6) by which a participant can request and receive a composite score *before the bid is submitted* to the auction system by, for example, clicking on the "submit" button shown in figure 6. Therefore, this allegation in the office action is without any merit.

Furthermore, the office action alleges that this explicitly recited feature is not given any patentable merit and does not cite to any prior art that discloses this claimed feature. Accordingly, it is clear that the rejection in the office action is erroneous and should be withdrawn.

The dependent claims are also in condition for allowance for at least the same reasons, as discussed above, as the independent claims on which they ultimately depend. In addition, they recite additional patentable features when considered as a <u>whole</u>.

CONCLUSION

In view of above, appellants respectfully solicit the Honorable Board of Patent Appeals and Interferences to reverse the rejections of the pending claims and pass this application on to allowance.

> **Should additional fees be necessary in connection with the filing of this paper, or if a petition for extension of time is required for timely acceptance of same, the Commissioner is hereby authorized to charge deposit account No. 19-0741 for any such fees; and applicants hereby petition for any needed extension of time.**

Respectfully submitted,

Date _August 15, 2006_

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8.   CLAIMS APPENDIX

LIST OF THE PENDING CLAIMS (WITH STATUS IDENTIFIERS)

1.   (Previously presented) A method for conducting an auction for a sponsor, comprising:

receiving score computation information, at an auction system computer, for computing respective composite scores for respective bids submitted to the auction, the score computation information for computing a composite score comprising:

a selection of a plurality of categories as evaluation criteria for the bid;

a setting of parameters for each of the selected categories; and

a weight specified for each of the selected categories;

receiving a bid from one or more participants, the bid including bid information corresponding to the selected categories;

calculating a weighted value for each one of the selected categories based on the parameters and weight for each of the selected categories and the bid information;

determining the composite score for each received bid based on the weighted values for each of the selected categories; and

identifying the bid having the highest composite score,

wherein at least one of the selected categories is set to a value provided by the sponsor, and

wherein the at least one of the selected categories set to a value provided by the sponsor relates to an evaluation of the participant by the sponsor,

wherein the step of receiving a bid from one or more participants comprises:

receiving values corresponding to the selected categories before the bid is submitted;

calculating a weighted value for each one of the selected categories based on the parameters and weight for each of the selected categories and the received values;

determining the composite score based on the weighted values for each of the selected categories; and

displaying the composite score to the participant from which the values were received before the bid is submitted.

2.   (Original) A method according to claim 1, further comprising:

receiving a designation of the participants who may submit bids to the auction.

3.   (Original) A method according to claim 2, further comprising:

sending a notification to each of the participants based on the received designation.

4-5.   (Cancelled)

6.   (Original) A method according to claim 1, wherein the plurality of categories include a price, a distance, a quality, a volume and a lead time.

7.   (Previously Presented) A method according to claim 1, further comprising:

notifying the participant having the bid identified as having the highest composite score.

8.   (Original) A method according to claim 1, wherein the information for setting the composite score further comprises a selection of at least three of the plurality of categories as evaluation criteria for the bid.

9.   (Original) A method according to claim 1, wherein the information in the bid includes values corresponding to the selected categories.

10.   (Previously Presented) A method according to claim 9, wherein the calculating of a weighted value for each one of the selected categories comprises:

scaling the values included in the information in the bid with the parameters set for each of the selected categories; and

adjusting the scaled values with the weight specified for each of the selected categories.

11.   (Previously Presented) A method according to claim 10, wherein the determining of the composite score further includes summing the adjusted values.

12.   (Cancelled)

13.   (Previously Presented) A computer program product comprising:

a computer readable medium having program code recorded thereon that is operable on a computer system for conducting an auction for a sponsor, the program code on the computer readable medium, when executed on a computer system, configured to:

receive score computation information for computing respective composite scores for respective bids submitted to the auction, the score computation information for computing a composite score comprising:

a selection of at least a plurality of categories as evaluation criteria for the bid;

a setting of parameters for each of the selected categories; and

a weight specified for each of the selected categories;

receive a bid from one or more participants, the bid including bid information corresponding to the selected categories;

calculate a weighted value for each one of the selected categories based on the parameters and weight for each of the selected categories and the bid information in the bid;

determine the composite score for each received bid based on the weighted values for each of the selected categories; and

identify the bid having the highest composite score,

wherein at least one of the selected categories is set to a value provided by the sponsor, and

wherein the at least one of the selected categories set to a value provided by the sponsor relates to an evaluation of the participant by the sponsor,

wherein receive a bid from one or more participants comprises:

receive values corresponding to the selected categories before the bid is submitted;

calculate a weighted value for each one of the selected categories based on the parameters and weight for each of the selected categories and the received values;

determine a the composite score based on the weighted values for each of the selected categories; and

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display the composite score to the participant from which the values were received before the bid is submitted.

14.   (Previously Presented) A computer program product according to claim 13, further configured to:

receive a designation of the participants who may submit bids to the auction.

15.   (Previously Presented) A computer program product according to claim 14, further configured to:

send a notification to each of the participants based on the received designation.

16-17. (Cancelled)

18.   (Previously Presented) A computer program product according to claim 13, wherein the plurality of categories include a price, a distance, a quality, a volume and a lead time.

19.   (Previously Presented) A computer program product according to claim 13, further configured to:

notify the participant having the bid identified as having the highest composite score.

20.   (Previously Presented) A computer program product according to claim 13, wherein the information for setting the composite score further comprises a selection of at least three of the plurality of categories as evaluation criteria for the bid.

21.   (Previously Presented) A computer program product according to claim 13, wherein the information in the bid includes values corresponding to the selected categories.

22.   (Previously Presented) A computer program product according to claim 21, further configured to:

scale the values included in the information in the bid with the parameters set for each of the selected categories; and

adjust the scaled values with the weight specified for each of the selected categories.

23.   (Previously Presented) A computer program product according to claim 22, further configured to:

sum the adjusted values.

24.   (Cancelled)

25.   (Previously Presented) A window in a graphical user interface of a computer of a participant in an auction, comprising:

an auction window, displayed on the graphical user interface of the computer of the participant, operable to display information describing the content of the auction as provided by a sponsor of the auction;

a composite score window operable to display at least two of a plurality of categories selected as evaluation criteria for a bid, a value entered for each of the selected categories, and a composite score calculated according to the values entered for each of the selected categories, parameters set for each of the selected categories, and a weight specified for each of the selected categories, wherein the composite score is calculated based on the respective weight for each of the selected categories and a value provided by the sponsor of the auction that relates to an evaluation of the participant by the sponsor,

wherein the composite score is displayed to the participant before the values are submitted to the auction.

26.   (Previously Presented) A window according to claim 25, wherein the composite score window is further operable to display an indication of the weight specified for each of the selected categories.

27.   (Previously Presented) A window according to claim 25, wherein the composite score window is further operable to display a composite score corresponding to a highest calculated composite score and a composite score corresponding to values most recently submitted by a participant of the auction.

28.   (Cancelled)

9.   **EVIDENCE APPENDIX**

None.

10.   RELATED PROCEEDINGS APPENDIX

None.